



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/091,148

03/06/2002

Kumiko Naito

122.1496

5920

21171

7590

07/27/2005

STAAS & HALSEY LLP

SUITE 700

1201 NEW YORK AVENUE, N.W.

WASHINGTON, DC 20005

EXAMINER

CORRIELUS, JEAN M

ART UNIT

PAPER NUMBER

2162

DATE MAILED: 07/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/091,148

Applicant(s)

NAITO, KUMIKO

Examiner

Jean M. Corrielus

Art Unit

2162

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This office action is in response the amendment filed on June 29, 2005, in which claims 1-14 are presented for further examination.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on June 29, 2005 has been entered.

Response to Arguments

3. Applicant's arguments with respect to claims 1-14 have been considered but are moot in view of the new ground(s) of rejection necessitated by amendment.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-14 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 1, 35, 6, 7, 8, 13 and 14 recite "the sale unit of each ingredient being stored in association with the stored menu information including substantially similar ingredients of

Art Unit: 2162

other menu". It is not clear as to what the applicants mean by substantially. The word substantially is vague and indefinite. This limitation does not add any significant change to the claims. Applicants are advised to amend the claims to solve such language to the claims.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

7. Claims 1-4 and 9-13 are rejected under 35 U.S.C. 102(e) as being anticipated by Iwase et al., (hereinafter "Iwase") US Patent Application Publication no. 2002/0165803.

As to claims 1, 2, 3 and 4, Iwase discloses the claimed "means for receiving the menu information input through member terminals" for receiving a request from a user requesting information on a predetermined disk (page 2, paragraph [0013], lines 5-7); "menu storage means

Art Unit: 2162

for storing the menu information and amounts of ingredients necessary to prepare each menu indicated in the menu information” means for storing a plurality of disk names and names of the ingredients necessary for making each dish and recipe for each dish (page 2, paragraph [0013], lines 13-16); “ingredient amount searching means for searching out the ingredients and the amounts thereof, from the menu storage means, corresponding to said menu information” (page 2, paragraph [0017], lines 18-27); “sale unit storage means for storing a sale unit for every ingredient, the sale unit of each ingredient being stored in association with the stored menu information including substantially similar ingredients of the menus” storing the names of the ingredient in the ingredient table (col.6, paragraph [0105] and [0107]); “sale unit searching means for searching out the sale unit, from the sale unit storage means, corresponding to said ingredient searched out by the ingredient amount searching means” searching the ingredient information database for a dish maker having necessary ingredient (page 2, paragraph [0017], lines 22-29); “comparing means for comparing the amount of said ingredient searched out by the ingredient amount searching means with amounts of ingredients corresponding to the sale unit searched by the sale unit searching means and outputting a result indicative thereof” (page 2, paragraph [0013], lines 21-28); and “menu information searching means for searching out the menu information, from the menu storage means, including said ingredient in case that the result indicates that said amount of said ingredient is less than said sale unit” (page 6, paragraph [0111], [0112] and page 8, paragraph [0139]).

As to claims 9, 10, 11 and 12, Iwase discloses the claimed “means for transmitting ingredients of a first menu and a number of distributions of the first menu to a user terminal”[0149]-0152]; and

Art Unit: 2162

“a means for transmitting ingredients of a second menu inquired in relation to the first menu and a number of the inquiries of the second menu to the user terminal” [0149]-0152].

As to claim 13, Iwase discloses the claimed “storing menu information and amounts of ingredients necessary to prepare each menu indicated in the menu information and storing a sale unit for each ingredient of each menu” (col.6, paragraph [0105] and [0107]; page 2, paragraph [0017], lines 22-29); and “outputting data of an ingredient, a sale unit and an amount of the ingredient upon a menu search, where the amount of the ingredient indicated as a result of the menu search is compared with amounts of ingredients corresponding to the indicated sale unit and an indication is provided when the ingredient indicated is less than the sale unit, the sale unit of each ingredient being stored in association with the stored menu information including substantially similar ingredients of the menus” (page 2, paragraph [0013], lines 21-28; page 6, paragraph [0111], [0112] and page 8, paragraph [0139]).

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. Claims 5-8 are rejected under 35 U.S.C. 102(e) as being anticipated by Kolawa et al., (hereinafter “Kolawa”) US Patent no. 6,370,513.

Art Unit: 2162

As to claims 5, 6, 7, 8 and 14, Kolawa discloses the claimed “storing a first successful sale coefficient representing a probability of purchasing ingredients of a first menu and a second successful sale coefficient representing probability of purchasing ingredients of a second menu inquired in relation to the first menu, the sale unit of each ingredient being stored in association with the stored menu information including substantially similar ingredients of the menus” (col.3, lines 20-32; col.10, lines 7-41; col.11, lines 4-50; col.16, lines 20-52; col.17, lines 20-34, lines 58-63; col.18, lines 10-44; col.20, lines 7-25, lines 40-64; col.21, lines 31-65); “computing expected sales of the ingredients of the first menu based on the ingredients of the first menu, a number of distributions of the first menu, and the successful sale coefficients of the first menu” (col.3, lines 20-32; col.10, lines 7-41; col.11, lines 4-50; col.16, lines 20-52; col.17, lines 20-34, lines 58-63; col.18, lines 10-44; col.20, lines 7-25, lines 40-64; col.21, lines 31-65); “computing the expected sales of the ingredients of the second menu based on the ingredients of the second menu, a number of inquiries of the second menu, and the successful sale coefficients of the second menu”(col.3, lines 20-32; col.10, lines 7-41; col.11, lines 4-50; col.16, lines 20-52; col.17, lines 20-34, lines 58-63; col.18, lines 10-44; col.20, lines 7-25, lines 40-64; col.21, lines 31-65).

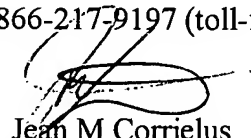
Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jean M Corrielus whose telephone number is (571) 272-4032. The examiner can normally be reached on 10 hours shift.

Art Unit: 2162

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Breene can be reached on (571) 272-4107. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jean M Corrielus
Primary Examiner
Art Unit 2162

July 23, 2005